SOME (56)

PAPERS

Given in by the COMMISSIONERS of the PARLIAMENT of SCOTLAND,

To the Honourable HOUSES *of the Parliament of* ENGLAND:

In Answer to their VOTES of the 24. *of September* 1646.

CONCERNING

The disposing of His MAJESTIES PERSON.

EDINBURGH:
Printed by Evan Tyler, *Printer to the Kings most Excellent Majestie.* 1646.

HAving received the Votes of both Houſes, dated the 24 of September, concerning the diſpoſing of the Kings Perſon as both Houſes of Parliament ſhall think fit. Although we judge (as in charity we ought) that it is not the meaning and intention of the Honourable Houſes, to claime or aſſume to themſelves the whole and ſole power to diſpoſe of his Majeſties Perſon, which is known to be a matter, as of high, ſo of common and equall concernment to both Kingdoms: Yet leſt by our ſilence the right and intereſt of the Kingdom of *Scotland* ſhould be prejudiced; and leſt that ſenſe of thoſe Votes, which many have apprehended and expreſſed, ſhould miniſter occaſion of miſ-underſtanding and difference between the Kingdoms, according to the deſires and hopes of our common enemies; We have judged it neceſſary, with that freedom, candor, and plainneſſe which becometh Brethren, to repreſent our thoughts concerning this great buſineſſe, to both Houſes.

We do acknowledge, that as Poſitively the Houſes of Parliament have as much power in diſpoſing of the Kings Perſon as any one Parliament hath or can have, to diſpoſe of a King who hath more free Kingdoms then one; So Negatively none ought or may diſpoſe of his Majeſties Perſon, without, or againſt their conſent. The like we ſuppoſe, will be mutually acknowledged in reference to the Parliament of *Scotland*, It being a fundamentall Right and Liberty of either Kingdom, That none can juſtly

(without their own consent) impede or restrain the Person of their King from coming amongst them, and doing the duties of a King unto them: And in both these Senses we acquiesce in the Vote of the Honourable Houses.

But if the Vote should be meant or made use of as restrictive to the Parliament of *England*, and exclusive of the Parliament of *Scotland*; Or, as if the two Houses were to dispose of the Person of the King, by their single and sole authority, without the consent and concurrence of the Kingdom of *Scotland*; We trust this sense is as far from the thoughts of both Houses, as it is from justice and equity: the Parliament of *Scotland* having as much interest in the Person of the King of *Scotland*, as the Parliament of *England* hath in the Person of the King of *England*; and the Person being but one, both Kingdoms must needs share equally in that joynt interest. Neither hath the Parliament of *England* any more power to dispose of the person of this King of *Scotland* being in *England*, then the Parliament of *Scotland* hath to dispose of the Person of this King of *England* if he were in *Scotland*: And as the Parliament of *England* might justly conceive their interest and power to be greatly prejudiced, if the Parliament of *Scotland* should claim the sole power to dispose of His Majesties Person being in *Scotland* (and consequently if they shall so think fit to restrain his Person from coming to his Houses of Parliament when the necessary affairs of this Kingdom require his presence) So we cannot but in justice expect to be dealt with by the Honourable Houses, as they would have us in like cases to deal with them.

Although what we have now expressed might be sufficient, as to our sense of the Vote; Yet it shall not be super-

ſuperfluous but very expedient, that we further clear our ſelves and our reall intentions, in that which we firſt offered in our Paper of the 11. of Auguſt, Concerning a joynt conſultation and reſolution of both Kingdoms, what is next to be done in reference to the King. Which motion we now reſume to be ſtill inſiſted upon: For the queſtion is not, whether the Houſes of Parliament, or the Scots Army ſhall diſpoſe of the perſon of the King in *England*. Our Army claimeth no power to diſpoſe of his Majeſties Perſon. And as they could not refuſe to receive him when he came amongſt them; So they are ready to obey and ſubmit to the joynt reſolutions of both Kingdoms concerning his Majeſtie. Neither is the queſtion, which of the two Kingdoms ſhall truſt the other, with the preſent reſidence of the Kings Perſon, till he be diſpoſed of by the conſent and agreement of both. Let it be far from both Kingdoms, that the former mutuall confidence, ſhould now turn to a mutuall diffidence: And let not a bleſſing from heaven be expected upon either of the Nations, which continueth not faithfull to the other, according to the Covenant; Our confidence in the Wiſdom, Juſtice, Loyaltie, and Faithfulneſſe of the Honourable Houſes is ſuch, that whenſoever the King ſhall be willing to return unto them, and they willing to receive him, we ſhall not make the leaſt impediment, but give our cheerfull conſent. Leaſt of all is the queſtion concerning any Privledge or Power of the Parliament of *England*, or any Law, Liberty, or practiſe of this Kingdom, to diſpoſe of their King. It is not our meaning to controvert what in that kinde they may do, or at any time have done according to their Laws (which are beſt known to themſelves) for their good and ſafety, without the leaſt ſhadow

of any dependencie upon another Kingdom. But withall we desire it may be remembred, that this is to be transferred equally to the power and priviledge of the Parliament of *Scotland*. We do not meddle with any of the single or proper Rights, Priviledges, or Laws of this Nation, more then we would have our Brethren to meddle with ours. It is one thing what the Parliament of *England* might have done in another Cause or Warre, before their engagements by the Covenant and Treaties with the Kingdom of *Scotland*: It is another thing what ought to be done after such conditions and tyes imposed by neither Kingdom upon the other, but by both joyntly upon themselves, and as mutuall Obligations, both to God, and each to other: Although we might also go further back than to the Covenant and Treaties, and plead the common and equall interest of the Kingdoms, in their common Head and Soveraign, ever since they were so united, as may sufficiently appear, even by some instances in his Majesties time who now reigns over us. It may be remembred (as to the interest of *Scotland*) that when his Majestie was first invited and desired to come into that Kingdome to be Crowned, It was represented by the Lords of his Majesties Privie Councell in *England*, that the great affairs of this Kingdom could hardly dispence with his Majesties going to *Scotland*: And therefore that either hee might receive his Crown of *Scotland* by a Vicegerent there, or that it might be sent hither unto him. Likeas, this present Parliament when the King went last into *Scotland*, to settle the Peace of that Kingdome, did earnestly desire and presse, that Hee might not goe, but that hee might stay here for the urgent affairs of this Kingdome. But both in the one case and in the other, the

interest

intereſt of the Kingdom of *Scotland* was preſerved: And as it was moſt neceſſary, that His Majeſtie ſhould goe into that Kingdome for receiving that Crown, ſo His Majeſty found it expedient to goe thither for the ſettling of Peace. It may alſo be remembred (as to the intereſt of *England*) that the Engliſh Nobility both at the *Birks Anno* 1639, and at *York* 1640 (whoſe letters to that purpoſe are yet extant and to be ſeen) And this Parliament *Anno* 1641 did claime an intereſt to ſee and know our demands propoſed to the King, that neither His Majeſty nor themſelves might be hereby prejudiced.

But the preſent queſtion needeth not goe ſo farre upon a back trade: Whatſoever the joynt intereſt of the Kingdomes was formerly, it is without controverſie now much more conjoyned. And unleſſe we lay aſide the Covenant, Treaties, Declaration of both Kingdomes, and three years conjunction in this warre, Neither the one Kingdome nor the other, muſt now look back what they might have done ſingly before ſuch a ſtrict Union; but look forward, what is fitteſt to be done by both joyntly for the common good of both, and for the ends of the Covenant, which both are oblieged joyntly to proſecute and promote. So that the true and proper queſtion in this conjuncture of affairs, is, whether both Kingdoms have not a joynt and common intereſt, in diſpoſing of the King of both, for the good of both, and that His Majeſties Perſon ought not to be diſpoſed of by either Kingdome ſingly. Much might be ſaid for this joynt way, and againſt a divided way, from the nature of all aſſociations, and the common rules of equity obſerved between perſons, ſocieties, or nations, which have a joynt intereſt in the ſame Perſon, Parent, Maſter, Servant, Or in the ſame thing, inheritance,

inheritance, lands, houſe, ſtock, or the like. In which caſes, one of the parties aſſociated, may not without the conſent of the other, diſpoſe of that which is common, eſpecially if it be a common Perſon, and leaſt of all if it be a Perſon of chiefeſt eminency or concernment: For although a common thing may be divided, and to each party his proper ſhare aſſigned, yet one individuall Perſon doth not admit of a partition, and ſo requireth the greater Union and conjunction of Councels in the diſpoſall of it. And as reaſons may be drawn from the nature of all aſſociations; ſo eſpecially from the nature of ours in the ſolemn League and Covenant, the Title, Narrative, Articles and concluſion of it, do all along linke together the intereſt of the Kingdomes, in this common cauſe ſo much concerning the glory of God, their own ſafety Union and Peace, and the honour and happineſſe of the King and his poſterity; which ends of the Covenant, both Parliaments aſwell as other Subjects of both Kingdoms, have oblieged themſelves joyntly and mutually to promote, according to their power, and to continue zealouſly and conſtantly therein all the dayes of their lives, againſt all oppoſition; And to aſſiſt and defend all thoſe that enter into this League and Covenant in the maintaining and purſuing thereof, and never ſuffer themſelves to be divided directly or indirectly from this bleſſed Union and conjunction. So that the ends of the Covenant (upon which the diſpoſall of the King muſt needs have a ſtrong influence) are not to be proſecuted by the two Kingdomes, as by two diſtinct bodies acting ſingly, but *they were united by ſolemn Covenant made to Almighty God and by League each to other, as one intire body to proſecute this cauſe*; Which was the expreſſion uſed by the honourable Houſes in their Declara-

Declaration of the 5 of Auguſt 1645, to the Lords States Generall of the United Provinces of the Low Countrys. In which Declaration this notable inſtance was given, which deſerveth alſo to be remembred, That by the Covenant both Houſes of Parliament and many thouſands of other His Majeſties Subjects of *England* and *Ireland*, ſtand bound aſwell as wee, to hinder the ſetting up of the Church government by Biſhops in the Kingdome of *Scotland*, And that wee aſwell as they ſtand bound to endeavour the extirpation thereof in *England* and *Ireland*. And as by the Covenant, the Kingdomes are faſt linked together in the whole proſecution of this cauſe; ſo particularly both are oblieged to endeavour mutually to preſerve and defend the Kings Majeſties Perſon and Authority, in the preſervation and defence of the true Religion, and liberties of the Kingdomes, That the world may bear witneſſe with our conſciences of our loyalty, And that we have no thoughts or intentions to diminiſh His Majeſties juſt power and greatneſſe.

From the Treaty the ſame thing doth further appeare, it being thereby manifeſt, that as our Army was to be leavied for the common good of both Kingdomes in the purſuance of the ends expreſt in the Covenant, And not as Auxiliaries for the ſingle good of this Kingdom; So they are not tyed to be ſubject to the reſolutions, and directions of either Kingdome ſingly, but of both joyntly. Alſo by the 8th. article, no Ceſſation, Pacification nor Agreement for Peace whatſoever, is to be made by either Kingdome, without the mutuall advice and conſent of both. So that if the diſpoſall of the Kings Perſon mentioned in the vote of both Houſes, be intended for the good, Peace, and ſecurity of both Kingdomes, then it

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ſhould not be done without the mutuall advice and conſent of both; But, if intended for the Peace and ſecurity of this Kingdome within it ſelf ſingly, this were to ſettle the Peace of the one Kingdome, not only without the councell and conſent, but before the ſetlement of the other, and ſo the more inconſiſtent with the plain ſcope of that Article. Moreover by the 9th. Article of the ſame Treaty, all matters of difference ariſing between the Subjects of the two Nations, are to be reſolved and determined by the mutuall advice and conſent of both, which hath ever been the uſuall way in ſuch caſes: Neither know we any other way for healing of differences between two free Nations, which are as Brethren and equalls, and neither of them ſubordinate to the other. If therefore any difference ſhould ariſe (which God forbid) between the two Parliaments or any others of the Subjects of the two Nations, concerning the diſpoſing of His Majeſties Perſon, then the queſtion cannot be otherwiſe reſolved and determined, but by the mutuall advice and conſent of both. How much better is it (according to the 6th. Article of the Covenant) to conſult how to prevent all differences which are like to ariſe between us or our poſterities?

The honourable Houſes in their wiſdome did think fit that in the managing of this warre, there ſhould be a conjunction of the Councells of both Kingdomes in reference to the Engliſh aſwel as to the Scottiſh forces. How much more may we expect a conjunction of Councells in diſpoſing of His Majeſties Perſon, wherein the one Kingdome is as much intereſted, as the other.

If more need to be ſaid in this buſſineſſe, we hope it is not forgotten, how the Declarations of both Houſes and

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their Commissioners sent into *Scotland*, to desire their assistance and engagement in this Warre, did invite, follicite and perswade that Nation upon principles of common interest, And in regard the one Kingdome cannot enjoy a firme and durable peace, while the other is in warre: Wee were also put in minde of the affection and duety which becometh brethren. And as we did upon these and the like considerations, espouse our brethrens quarrell; So it cannot be offensive that we desire from them an improvement of the very same principles: And that the same measure of the Conjunction of interests be given to us, which was got from us. God forbid, that wayes of separating the interests of the Kingdoms should now be studied, as much as wayes of Uniting them were before endeavoured. We cannot but expect better things from our Brethren, then in their prosperity to desert us, who did engage and joyn with them in their greatest affliction; Or to think of securing their own Peace without us, while the troubles of our Kingdome continue.

Wherefore, wee cannot choose but obtest by the common good of both Kingdomes; by the conjunction and parity of interests; by the love of Brethren; by Declarations of both Houses; by former presidents; by the Treaty between the Kingdomes; by the solemn League and Covenant: yea, by the very law of Nations and rules of common equity, that there may be a conjunction of the Councells and resolutions of both Kingdomes, in disposing of that royall Person who is King of both, and that all lawfull and possible means (of which this is one and a chiefe one) may be used, which may preserve His Majesties Person, honour, and happinesse according to the Covenant; Monarchicall government according to the

fundamentall lawes of both Kingdomes: Together with a firme and happy Union between the Kingdomes.

These principles we desire still to goe upon, And therefore if the vote of both Houses communicated unto us, be understood as a materiall demand of His Majesties Person to be delivered unto them, to be disposed of as they shall think fit: This as it doth not necessarily follow from the words of the vote nor doth agree with that sense of the vote, which in charity we are most willing to entertain, so there are just and great reasons against it. We acknowledge that we are not to presume the worst, but the best concerning the intentions of the honourable Houses towards the King. But wee do not doubt it will be mutually acknowledged that for preventing of differences afterwards, it is most fit and necessary, that there be a cleere and distinct understanding between the two Kingdomes, in a businesse of this nature and consequence. And that it is not to be expected from private persons (though under jurisdiction) much lesse from another Kingdome, that they should passe from their interest or just security, because they have to doe with such, as they judge to be honest and faithfull. To speak therefore to the nature of the thing in it self, if the Scots Army should deliver up His Majesties Person without his owne consent, and that upon the vote communicated unto us, which (although it may suffer a benigne interpretation and be understood of the disposing of the Kings Person favourably and honourably, yet) as the words stand, is comprehensive and capacious of more then is fit to be expressed: This Act of the Army were not agreeable to their Oath of Alleageance (obliging them to defend his Majesties person from all harms and prejudices) nor to the Solemne League and

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Covenant, which was not intended to weaken, but to ſtrengthen our Alleageance, and to wipe off the calumny and aſperſion of Rebellion: For which end, before our engagement in this Warre, it was mutually covenanted between the Kingdoms, to preſerve the Kings Majeſties Perſon and Authority, in the preſervation of the Religion and Liberties of the Kingdoms; Thereby holding forth to the world, that the preſervation and defence of Religion and Liberties, may well conſiſt and was intended to conſiſt with the preſervation of his Majeſties Perſon and Authority, whom therefore our Army cannot deliver, to be diſpoſed of by any others, at pleaſure. This delivery were alſo inconſiſtent with that joynt, equall, and common intereſt of both Kingdoms in the diſpoſall of his Majeſties Perſon, which we have before aſſerted; And, were upon the matter a paſſing from the right and intereſt of the Kingdom of *Scotland* in that buſineſſe. It were alſo contrary to his Majeſties power of reſidence in any of his Kingdoms, and to the free exerciſing of the duties of his place and acts of perſonall government, ſuch as the hearing and redreſſing of the grievances of his Subjects in Parliament, and his concurring to the making of Laws. Neither could it ſtand with the Commiſſions given to the Committee of Eſtates and general Officers of our Army, or with their Military Oath, to deliver up their King without his own conſent, and without warrant from the Parliament of *Scotland*, to be diſpoſed of by another Nation: Even as it were not to be expected, that the Army under the command of Sir *Thomas Fairfax* if they were in *Scotland* for our aſſiſtance there, in the like cauſe, and under the like ingagements, in a receſſe of the Parliament of *England*, and without their warrant, would upon the

like demand deliver up the King (having caſt himſelf in their hands) to be diſpoſed of by the Parliament of *Scotland*. Finally, if it be contrary to the Law and common practiſe of Nations, to deliver up the meaneſt Subject fled to them, though it be for the greateſt crimes (for which cauſe the Parliament of *England* in the 4. of King *James*, as likewiſe in the large Treaty, refuſed a generall Act of remanding between the two Kingdoms, unleſſe they ſhould be united into one) how much more would the world abroad condemne our Army for a baſe and diſhonourable act, if they ſhould deliver up their Head and Soveraign (having caſt himſelf into their hands) to be diſpoſed of at the arbitrement of another Nation.

And now we hope it will not be teadious, that we further enlarge our ſelves, upon this great ſubject, by adding ſatisfactory Anſwers to ſuch Objections, as have been, or may be made againſt our deſires and Principles in this buſineſſe.

Object. 1. *That the Scottiſh Armie is an Auxiliarie Armie of* England, *and under their pay, and therefore ought to deliver up the King, to be diſpoſed of by both Houſes as they ſhall think fit.*

Anſw. It is ſufficiently known, that the Scottiſh Armie came not into this Kingdom in the nature of Auxiliaries: For when it was deſired by the Parliament of *England* that the Kingdom of *Scotland* ſhould ſend an Auxiliarie Army into this Kingdom, to be ſubject to the directions and reſolutions of both Houſes, It was abſolutely refuſed, as may appear by the ſeverall Papers about that purpoſe yet extant. The Kingdom of *Scotland* did foreſee and conſider, how prejudiciall it was to forſake their own Peace, and what infinite troubles, loſſes, and unavoid-

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able danger their engagement with the Parliament of *England* againſt ſo powerfull and prevailing an Enemy, would bring upon the Kingdom of *Scotland*: And as they regarded not the large offers, nor the threats of the other ſide for all their proſperity; ſo there was no offer of pay or other worldly advantage whatſoever from the Houſes of Parliament, which could have induced them to undertake ſo hazardous and deſperate a War. It was the good of Religion, King, and Kingdomes, they ſet before their eyes, in order to which end, they accounted nothing too dear unto them: And having reſolved to engage in this Cauſe for aſſiſtance of their Brethren therein, they did not ſtand upon conditions, But without reſpect to the ſeaſon of the yeer, the great ſtrength of the Enemy, and other diſcouragements; They did in a ſhort time leavy an Army at their own charge: And becauſe of the many burdens then lying upon this Kingdom, were content for the preſent to accept of a ſum toward the Monethly entertainment of that Army, amounting to little more then half pay, and to ſuperſede all further recompence, till the War ſhould be at an end. And ſeeing the Kingdom of *Scotland* was to quite their own Peace, and equally with *England* to undergo the hazard of the War, it was found reaſonable, that the proſecution thereof, and the making of the conditions of Peace after the Warre, ſhould be with joynt advice and conſent of both Kingdoms. And according to theſe grounds, a Covenant was agreed upon for the Reformation of Religion, and for preſervation of the Liberties of the Kingdoms, and of the Kings Perſon and Authority: together with a Treaty, wherein it is declared that the Scottiſh Army ſhall be commanded by a Generall appointed by the Eſtates of *Scotland*, and ſhall be

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ſubject to ſuch reſolutions and directions, as are and ſhall be mutually agreed upon and concluded between the Kingdoms, or their Committees in that behalf appointed for purſuance of the ends of the Covenant: of which, one is to defend and preſerve his Majeſties Perſon.

Object. 2. *That the King is in* England, *and therefore to be diſpoſed of by both Houſes of Parliament, and cannot be diſpoſed of by the Scottiſh Army: And though the Kingdome of* Scotland *may pretend to an intereſt and power in the diſpoſing of the King, yet they can have no exerciſe of that power in* England: *And albeit the Scottiſh Army, according to the Treaty between the Kingdomes be only ſubject to ſuch reſolutions, as are mutually agreed upon by both Kingdomes, or their Committees appointed in that behalf, yet this is only to be underſtood in ordering and regulating of the Scottiſh Forces for proſecuting the warre, and the Treaty extends no further.*

Anſw. Although His Majeſties riding one dayes journey, might wholly ſubvert the grounds of this objection; Yet wee ſhall not inſiſt upon this anſwer, becauſe we conceive it toucheth not the true ſtate of the queſtion. It hath been already cleered what is not, and what is the ſtate of the queſtion, which being remembred wee doe aſſert, that the King comming voluntarily to the Scottiſh Army, they cannot in duety deliver him againſt his will to the Houſes of Parliament without conſent of the Kingdome of *Scotland:* For the being in *England* takes not away the relation between the King and His Subjects of the Kingdome of *Scotland*, nor ought it to impede the performance of the mutuall dueties founded upon that relation: For alledgeance hath no limitation of place being grounded upon the Law of Nature aſwell as the law Municipall, and ſo is rather univerſall then locall. The

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difference of place takes not away the relation and mutuall ducties between parents and children, And it is not the place but the relation which gives intereſt to the diſpoſing of the Perſon of the King. As his being in *England* takes not away the relation between him and his Subjects of *Scotland*, ſo it doth not infringe the mutuall obligations and ſolemn engagements between the Kingdomes, for joynt counſells in proſecution of the War and ſettling of the peace: The Kings coming to the Scottiſh Army, being an emergency of our joynt warre, and the right diſpoſall of his Perſon, the onely meane (for the preſent) of our joynt ſecurity and peace. Neither can the Kings being in *England*, prejudge any right or priviledge of either Kingdome. It is the fundamentall right and priviledge of the Parliament of *Scotland*, and the liberty of that Kingdome (as wee acknowledge it to be the right and priviledge of the Kingdome of *England*) that the perſon of their King ought not to be diſpoſed of, but with their advice and conſent. The place of the Kings reſidence (as was anſwered to us, when in the large Treaty it was deſired His Majeſty might ſometimes reſide in *Scotland*) is at his own election, in either of the Kingdomes as the exigence of affairs ſhall require and he ſhall think fit, Or elſe muſt be determined by the mutuall advice and conſent of both Kingdomes. From all which grounds it is apparent, that the Kingdom where he reſides for the time, may doe no Act which may hinder His Majeſty to performe the office and duety of a King, to the Kingdom, from which he is abſent in Perſon, Nor impede him to repair to that Kingdome, when the affairs thereof ſhall neceſſarily require it. Otherwiſe, if the Kingdome where His Majeſtie reſides hath the ſole intereſt and right to diſ-

poſe of His Perſon, the Eſtates of the Parliament of *Scotland*, might upon former occaſions and may now, in caſe the King and Prince ſhall repair to *Scotland*, lawfully detain them there, and make it the place of the ordinary reſidence of them and their poſterity, without the conſent of the Kingdome of *England*: Which we acknowledge could not be done without a manifeſt prejudice and injury to this Kingdome. Wherefore we cannot but conclude that whereſoever the King be, in *Scotland* or *England*, he being the King of both, ought to be diſpoſed of for the good and with the conſent of both Kingdomes. And if it be conſidered that the Scottiſh Army was invited and called into this Kingdome by both Houſes in a Treaty for proſecuting the ends of a ſolemne League and Covenant, whereof one is to preſerve and defend His Majeſties Perſon, there can remaine no doubt concerning the exerciſe of that right and intereſt in this Kingdome: And therefore it ſeems very ſtrange, that when upon invitation they are come into *England*, as for other ends, So to defend His Majeſties Perſon, their being in *England* ſhould be made uſe of, as an argument why they ſhould deliver up the Perſon of their King to be diſpoſed of, as both Houſes ſhall think fit. Whereas it is alledged, that the Treaty extends no further then to the ordering and regulating of the Scottiſh Forces in relation to the warre: Although this be really anſwered from the nature of the thing, the Kings coming to the Scottiſh Army being an emergency of the warre, and ſo the delivering of His Perſon comes under the regulation and direction of both Kingdomes or their Committees, as an Act of the Scottiſh Army; Yet that all doubt may be removed, wee further adde, that it is cleere from the third Article of the Treaty, that the

Scottiſh

Scottiſh Army is to receive the Directions of both Kingdoms or of their Committees, in all things which may concern the purſuance of the ends of the Covenant and Treaty, whether in relation to Peace or Warre. In the 8th Article of the Treaty, no Ceſſation, Pacification, or agreement for Peace whatſoever, is to be made by either Kingdom, or the Army of either Kingdom, without the advice and conſent of both Kingdoms. And in the 9th Article, all differences ariſing between the Subjects of the two Nations are to be reſolved and determined by the mutuall advice and conſent of both Kingdoms.

Object. 3. *That the Scottiſh Armie did carry away the King from the Leaguer before* Newark *when there was a Committee of both Houſes there, without ſeeking their conſent; and that they have ſince diſpoſed of him without conſent of the Houſes of Parliament, whereas by the Treatie they ought to do nothing without a joynt reſolution of both Kingdoms or their Committees.*

Anſw. No ſooner did the King come into the Scottiſh Army, but the very ſame day the Committee of Eſtates of *Scotland*, reſiding with that Army, did acquaint the Commiſſioners of both Houſes therewith: And not ſatisfying themſelves with this, the day following they wrote a Letter to the Committee of *Scotland* reſiding at *Edinburgh*, and another to the Committee of both Kingdoms here (which was communicated to both Houſes) deſiring the advice of this Kingdome, as in a matter of common intereſt, and declaring they would obey the joynt reſolutions of both Kingdoms: Yet no anſwer or advice was returned unto them, either from the Houſes or their Commiſſioners. But immediatly after the ſurrender of *Newark*, they received information that five thou-

ſand Horſe and Dragoons from Sir *Thomas Fairfax* his Army were upon their March towards them Northward (which the honourable Houſe of Peers was pleaſed to give order to ſtop) there being no Enemy in thoſe parts to be oppoſed: Upon conſideration whereof, the Quarters wherein they had ſtayed during the ſiege of *Newark*, being extreamly exhauſted, and the Service for which they came thither being performed, for preventing miſtakes or new troubles between the Kingdoms, They removed into *York-ſhire*, and the King as he came unto them of his owne accord, did voluntarily March along with them. Upon ſeverall occaſions afterwards, They and we did earneſtly deſire the honourable Houſes to ſend a Committee, to joyn and co-operate with the Committee of Eſtates there upon the place, in all things according to the Treaty: But no anſwer was returned. And from time to time the Houſes were acquainted with the proceedings in that Army; which, were according to the Covenant, and the known reſolutions of both Kingdoms, to debarre all ſuch of both or either Kingdoms as had been in Arms againſt the Parliament, from coming into their Quarters, or to the Court, or to the Kings Perſon, according to the deſire of the Houſe of Peers. And whereas it is affirmed, That by the Treaty the Scottiſh Army ought to do nothing without a joynt reſolution of both Kingdoms or their Committees, There is no ſuch Clauſe in the Treaty, but they are to be ſubject to ſuch reſolutions as are and ſhall be agreed upon, and concluded mutually between the Kingdoms or their Committees, as by Ordinance of Parliament, the Army under the command of the Earle of *Eſſex*, or of Sir *Thomas Fairfax*, was to receive and obſerve the Directions of the Committee

of

of both Kingdoms sitting at *Westminster*; But in case no new Directions were sent unto them, they were left to former Orders (if any were) or otherwise to their own judgement and discretion. There was never any such resolution agreed upon between the Kingdoms or their Committees, as that the Scottish Army should not receive the King if he came unto them, but it is an agreement between the Kingdoms (in the Covenant) that they should preserve and defend his Majesties person; And (in the Declarations of both Kingdoms) to rescue him from the common Enemy: So that the Scottish Armie having often desired to know the direction and advice of the Houses of Parliament, concerning the King, and no new Directions being signified unto them; According to the Treaty they were to observe the Directions and Resolutions formerly agreed upon between the Kingdoms. And as the Scottish Army do and will ever acknowledge that they claim no power to dispose of the Kings Person, but are subject to, and shall be ready to follow whatsoever both Kingdoms shall agree upon, as best for the King and Kingdoms: so their keeping and preserving his Majesties Person (as they would do to any person of his eminency and relation in an Army or Garrison Town) without the least thought of hindering his voluntary return to his Parliament, cannot be reputed or called a disposing of his person.

Object. 4. *If any Peere of* England *go to the Scottish Armie and desire their Protection, can he not be disposed of without the consent of the Committee of Estates of the Kingdom of* Scotland *residing with that Army?*

Answ. There is a wide and manifest difference betwixt the relation the Scottish Armie hath to any Subject

of *England*, and the relation they have to their King: which are sufficiently distinguished in the third and fourth Articles of the Covenant: for by the one they are mutually obliged to preserve and defend his Majesties Person, and by the other they are mutually obliged to endeavour, that all Incendiaries and dividers betwixt the King and his people, or betwixt the Kingdoms, be brought to tryall and condigne punishment before the supream Judicatories of the Kingdoms respectively, And the Kingdom of *Scotland* hath equall right and interest with the Kingdom of *England* in the disposal of the Person of the King, which they cannot pretend unto concerning the Person of any Subject of *England*.

Object. 5. *That seeing it is alleadged by us, that the disposing of the Kings Person comes in place of a Peace, then the receiving of the King into the Scottish Armie without consent of the Houses, is æquivalent to the making of a Peace, without consent of the Kingdome of* England, *contrary to the eighth Article of the Treatie.*

Answ. It hath been sufficiently answered before, that the Scottish Army neither hath nor will take upon them to dispose of the King. He came unto them without Capitulation or Treaty, his residence with them is voluntary and free, and they do nothing which may hinder him to come to his Houses of Parliament. But if the kingdom of *Scotland* should consent to the desire of the Houses, that they may have the sole disposall of the Person of the King, It being that which comes in the place of the Peace and security of both kingdoms, They will really quite the right and interest they have by the eighth Article of the Treaty, concerning the making of a Peace; for which soever of the kingdoms is acknowledged to have the sole

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diſpoſall of the King, may without the other make Peace with him, when, how, and in what terms they pleaſe.

Object, 6. *That* England *is a free Nation, and in former times it was in the power of the Parliament of* England *to diſpoſe of their Kings, And if one Kingdome pretend to a joynt right of diſpoſing of the King, while he is in the other, it is to entrench upon the former liberty of that Kingdome. That the Kingdome of* Scotland *have no reaſon to diſtruſt the Houſes of Parliament, who when the King ſhall be in their power, will not diſpoſe of him otherwiſe then may conſiſt with their duety, according to the Covenant and Treaty between the Kingdoms.*

Anſw. We will not diſpute what power the Houſes of Parliament formerly had to diſpoſe of the Perſon of their King; but whatſoever power or right they have, the like is due to the Parliament of *Scotland,* And ſo the Perſon of the King being common to both and indiviſible, cannot be diſpoſed of, but by conſent of both kingdoms. It were another queſtion indeed if it were as in former times, if we had different Kings, if there were not an Union of the kingdoms under one head and Monarch, if there were neither Covenant nor Treaty between the kingdoms; But ſince all theſe are, and that the peace and ſecurity of both kingdomes, is ſo much concerned in the diſpoſall of the King; not any one of them without the other, can juſtly pretend to the ſole judgement and right, to determine what is beſt and moſt expedient for the ſafety and ſecurity of both. Nor can it in reaſon be made an argument that the one Kingdome diſtruſts the other, becauſe the one will not renounce and reſigne all right and intereſt they have in the perſon of the King, and matter of their own ſecurity and peace, to the judgement and determination of the other; otherwiſe, according to this Argument,

where there is any truſt, there ſhould be no contract between perſon and perſon, nor Treaty between Nations; Or if there be any Treaty or agreement, the performance or not performance of it, is to be left to arbitrement. But we cannot ſee that this doth argue any diffidence or diſtruſt more then when private perſons lending money to the Publike, deſire ſecurity, and will not depend upon pleaſure. And therefore, though it is not to be queſtioned, but the houſes of Parliament would diſpoſe of the Perſon of the King ſo as might conſiſt with their dutie, in performing the Covenant and Treaty; Yet, this can be no argument why the Scottiſh Armie ſhould neglect their dutie, or the kingdome of *Scotland* quite the intereſt and right they have in the perſon of the King.

Object. 7. *That the King is in the poſſeſsion of the Scottiſh Armie; and though a joynt advice and conſent of both Kingdoms be urged for his diſpoſall, Yet if the Houſes of Parliament agree not to what* Scotland *ſhall deſire, the King doth ſtill remain in the power of the Scotts Armie, and ſo the Parliament of* England *hath no conſent.*

Anſw. If this argument were turned over, the ſtrength or weakneſſe of it may the more eaſily appear: Suppoſe the King were here at *Weſtminſter*, it may be upon the ſame grounds urged, that the kingdom of *Scotland* would have no conſent in his diſpoſall, And ſo much the more that the Houſes clamie the ſole intereſt and judgement to diſpoſe upon the Kings Perſon, which we deſire may be done joyntly, as may be beſt for the ſecurity and ſafety of both kingdoms. And we ſee no reaſon, why it may not now be determined when he is in the Scottiſh Armie (who are intruſted by both, and ſubject to the reſolution of both kingdoms) as well as heereafter, ſince he came

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thither of his own accord, and his residence there is voluntary. And if his Majestie shall think fit to repair hither to his Houses of Parliament, they shall do no act which may either hinder or disswade him, but cannot constrain him, or deliver him to the Houses to be disposed of as they shall think fit.

It may now abundantly appear from the grounds and considerations before expressed, that the Scottish Armie may not deliver up his Majesties Person, to be disposed of by the one Kingdom, without the consent of the other; Upon supposition whereof, we shall in the next place (without presuming to prescribe wayes, or impose conditions) expresse our selves concerning some expedients, which in reference to his Majestie, deserve to be looked upon, considered of, and compared together; where we shall onely premise this much, That whatever way shall be taken, if the right end be looked at, his Majesties Person ought to be so disposed of, as may serve most for the safety and happinesse of the King himself, and for the common Peace and security of the Kingdoms, United in this Cause by the solemn League and Covenant; And, as may best agree with their dutie, Covenant, and Treaties.

These ends being before our eyes, although it be most eligible and best of all, that His Majestie should without further delay, forthwith give satisfaction in the Propositions of Peace (which hath been with all instancy pressed, not only by us, but by all the judicatories of the Kingdom of *Scotland*) and so returne fully reconciled to His Houses of Parliament; Yet, since (to our unspeakable grief) this this hath not been as yet obtained; Wee doe propose that His Majesties coming to *London*, or to some of his houses neer *London*, with safety, freedome and honour (which

is desired by himself, that hee may be heard, And that upon the cleering of his doubts, he may knowingly give a satisfactory answer to the Propositions) is much better then the other wayes which may be expected in case this His Majesties desire be not agreed unto. As for His Majesties going to *Ireland* or other-where beyond Sea, It could not be the way to a present peace now so much desired; but would certainly prognosticate new troubles. Lastly, His Majesties coming hither, or neer this place, is a more probable and hopefull way to preserve the Union of the Kingdomes, because the Enemy being still in Armes in *Scotland* and expecting supplies from *Ireland*, and the Kingdome disabled by their great sufferings to intertaine an Army for suppressing the malignant party, It were much more easie to raise new Forces there to the disturbance of the peace of this Kingdome, then it could be here, where (by the blessing of God) all the Forces and Garrisons of the Enemy are subdued, and where it will not be so difficult to hinder delinquents from accesse to His Majesty. The dangers and inconveniencies of any of these other wayes, do so much preponderate, and the present condition of affairs doth so much differ from that time, when both Houses with our concurrence did disagree from His Majesties desire of comming to *London* (at which time he had both Garrisons and field Forces unreduced) that it may be conceived not only safe, but (as things stand) most convenient, to agree to His Majesties coming to *London* or neer it, upon such conditions and assurances from him, as shall be by joynt resolution found necessary for preventing the accesse of delinquents to His Majestie, or any intestine commotion, or forraine invasion, to the disturbance of the peace of either Kingdome.

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We truſt it might accelerate a happy peace, bring the preſent differences to an end, and be no grief of heart afterwards; if upon ſuch terms and conditions, both Houſes ſhould be pleaſed to revive and renew ſuch an invitation and aſſurance upon their part, as was contained in their anſwer to His Majeſties Meſſage of the 11. of Septemb. 1642. where, after mention made of their chief grievance; it was added. *All this notwithſtanding, as we never gave your Majeſty any juſt cauſe of withdrawing your ſelfe from your great Councell, So it hath ever been and ſhall ever be farre from us to give any impediment to your returne, or to neglect any proper means of curing the diſtempers of the Kingdom, and cloſing the dangerous breaches betwixt your Majeſty and your Parliament, according to the great truſt which lies upon us. And if your Majeſtie ſhall now be pleaſed to come back to your Parliament without your Forces, we ſhall be ready to ſecure your royall Perſon, Crown, and dignity with our lives and fortunes; Your preſence in this great Councell, being the only means of any Treaty betwixt your Majeſty and them with hope of ſucceſſe.* Divers ſuch paſſages there are in the Declarations of both Houſes which we ſhall not need to mention.

But if the Houſes of Parliament ſhall not agree to His Majeſties deſire of coming hither with ſafety, freedome, and honour; We offer to be conſidered in the next place; whether it be not expedient, that once again Commiſſioners be ſent to His Majeſty in name of both Kingdomes, with power to hear his deſires, and to endeavour the ſatisfaction of doubts and ſcruples; with intimation alſo, That if His Majeſtie ſhall not give ſatisfaction in the Propoſitions, both Kingdomes will without any more ſuch applications, conſult and joyntly reſolve upon other wayes of their ſafety and ſecurity. And upon the other

part, that if His Majesty will be now at last graciously pleased, to satisfie the desires of both Kingdoms, His Majesties Throne with his just power and greatnesse, shall be established, aswel as the peace and security of his Subjects.

All which we doe propound in a brotherly freedome, not being peremtorily wedded or addicted to any expedient that we have offered; but, if the honourable Houses in their wisdome, shall be pleased to think of any other expedient, which shall bee for the good, safety, and honour of the King and Kingdomes, We shall be most willing and ready to agree unto it, when it shall be made known unto us, not doubting but that in the faithfull and conscionable use of all good and possible means, which may prevent differences between the Kingdomes, there will be at last a sweet and brotherly agreement in such a conclusion, as shall be good in Gods eyes, and wherein both Kingdomes shall finde greatest comfort and happinesse.

By command of the Commissioners for the Parliament of Scotland.

Jo. Cheislie.

FINIS.